



Department of Business Regulation

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Medicaid Liens in Settlement of Property & Casualty Claims

The Rhode Island Department of Human Services has requested the assistance of the Insurance Division in notifying insurers of their obligation to satisfy Medicaid liens in the settlement of Property and Casualty claims. R.I.G.L. § 40-6-9(c) provides in relevant part that whenever Medicaid payments have been made:

...by reason of accident, injury, or illness for which a third party may be liable, for and on behalf of himself or herself, and for and on behalf of any other person for whom he or she may legally act, shall be deemed, without the necessity of signing any document, to have assigned to the department of human services, from amounts recovered or recoverable from any third party, an amount of money equal to the amount of financial assistance provided as a result of the accident, illness, or injury.

Insurers should also be aware of the provisions of R.I.G.L. § 40-8-15 which allows Department of Human Services to assert a lien for Medicaid benefits against the estate. R.I.G.L. § 40-8-15 allows collection for all Medicaid payments, not just those related to an accident or medical malpractice action. DHS can proceed under both statutes.

The Rhode Island Supreme Court has recently held that the payments subject to R.I.G.L. § 40-6-9(c) are not admissible to reduce plaintiff's damages in medical malpractice claims pursuant to R.I.G.L. § 9-19-34.1. *Esposito v. O'Hair*, 886 A.2d 1197 (R.I. 2005).

Insurers should, therefore, evaluate claims to determine whether any Medicaid reimbursement to the Department of Human Services is implicated under R.I.G.L. § 40-6-9(c). If R.I.G.L. § 40-6-9(c) is implicated in a claim please contact the Department of Human Services prior to the settlement of the claim to assure that the obligations under R.I.G.L. § 40-6-9(c) are satisfied. Insurers should contact the TPL Recovery Unit of the Department of Human Services in the Legal Office, Jacqueline G. Kelley, Assistant Director, telephone number is (410) 462-6820, e-mail address is jkelly@dhs.ri.gov, to discuss any claims or with any questions concerning the content of this Bulletin.

Joseph Torti III
Associate Director and Superintendent of Insurance
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